

MEETING RECORD

NAME OF GROUP: City Board of Zoning Appeals

DATE, TIME AND

PLACE OF MEETING:

Friday, April 30, 2004, 1:30 p.m., Hearing Chambers, County-City Building, 555 South 10th Street, Lincoln, Nebraska

MEMBERS AND OTHERS

IN ATTENDANCE:

Members: Gene Carroll, George Hancock, Gerry Krieser, and Linda Wibbels (Tom Wanser absent).
Others: Terry Kathe (Building & Safety), Tonya Skinner (City Law Dept.), Becky Horner and Michele Abendroth (Planning Dept.), applicants and other interested parties.

STATED PURPOSE

OF THE MEETING:

Regular Meeting of the City Board of Zoning Appeals

Mr. Hancock called the meeting to order at 1:30 p.m.

Approval of the minutes of the September 26, 2003 meeting

Mr. Krieser made a motion to approve the September 26, 2003 minutes, seconded by Mr. Carroll. Motion carried 4-0. Carroll, Hancock, Krieser, and Wibbels voting 'yes'; Wanser absent.

Election of Chair and Vice-Chair

Mr. Krieser moved that Gene Carroll be elected Chair and Linda Wibbels be elected Vice-Chair, seconded by Mr. Hancock. Motion carried 4-0. Carroll, Hancock, Krieser, and Wibbels voting 'yes'; Wanser absent.

Appeal No. 2365 by David and Teresa Schmidt for a variance to allow an uncovered deck greater than 3 feet in height to project into the required rear yard setback on property generally located at 3727 Stockwell Street.

PUBLIC HEARING

April 30, 2004

David Schmidt, owner of the property, stated that his land slopes drastically to the east. They are asking for a variance to build a deck to the south, as applied for in the permit.

Mr. Carroll asked if there was further testimony in favor of or against the appeal. With no one appearing further, Mr. Carroll closed the hearing.

ACTION

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Ms. Wibbels stated that she is voting to support this application due to the fact that after seeing the site, there is a severe slope and it makes sense to build to the south. Mr. Hancock noted that there is an unusual or exceptional circumstance in this lot because of the severe slope. Mr. Krieser and Mr. Carroll stated that they agree.

Ms. Wibbels made a motion to approve the application, seconded by Mr. Hancock. Motion carried 4-0. Carroll, Hancock, Krieser, and Wibbels voting 'yes'; Wanser absent.

Appeal No. 2366 by Tom White for a variance to expand the residence into the required side yard

and closer to the existing accessory building on property generally located at 2801 Van Dorn Street.

PUBLIC HEARING

April 30, 2004

Tom White, owner of the property, began by stating that there are other homes in the area that have less than the 10 yard setback. He feels that a potential solution of shortening the wall destroys the integrity of the home and the interior does not lay out as he wants. Mr. White clarified that he is asking for two variances, one to reduce the required distance between the addition to the pool house, and second, to reduce the side yard setback. He noted that only a small corner would not meet the 6 feet required distance between the addition and the pool house.

Mr. Carroll asked Mr. White why the addition was designed with the 7 feet 6 inch setback instead of the required 10 feet. Mr. White replied that the house next to him does not have a 10 feet setback, and they did not confirm what the setback requirement was. Mr. Carroll asked why there is a requirement distance of 6 feet between the addition and pool house. Mr. Kathe stated that it is due to fire safety so that fire doesn't transfer from one building to the next.

Mr. Carroll asked if there was further testimony on behalf of or against the appeal. With no one appearing further, Mr. Carroll closed the hearing.

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Ms. Wibbels stated that she is voting to approve this application because most of the homes in the area do not conform with the R1 zoning, and the addition will block the pool house from the street. Mr. Krieser stated that he is voting to approve because of the age of the house and the other setbacks in the area. Mr. Hancock commented that he is trying to search for the unusual circumstance. Mr. Carroll stated that they have to look at what is causing the problem and the conditions that are there. The owner could reduce the size of the addition by 2.5 feet so that it would be within the requirement. With respect to the pool house, it is made of stone and there would be less chance of fire transfer. He is more inclined to agree with the pool house setback but not the side yard setback.

Ms. Wibbels asked Mr. White if he could reduce the size of the addition by 2.5 feet. Mr. White stated that he could, but he would prefer not doing that. He believes that the unusual situation of the lot is the R-1 zoning. Mr. Kathe noted that if the distance between the pool house and the addition is reduced, there will be a building code situation with rating walls, overhangs, and windows.

Ms. Skinner clarified that the R-1 zoning is not unusual as there are many R-1 zoning areas all over town. She added that because many of the homes in the neighborhood do not meet the code, it does not mean that this particular property should be non-conforming. The job of the Board is to try to keep everything as close to code as possible. There has to be an unusual circumstance of the property that justifies a variance.

Ms. Wibbels made a motion to approve the application, seconded by Mr. Krieser. Motion denied 1-3. Wibbels voting 'yes'; Carroll, Hancock, and Krieser voting 'no'; Wanser absent.

Ms. Wibbels moved to approve the variance to reduce the separation from the main building to the accessory building from 6 feet to 4 feet 6 inches, seconded by Mr. Hancock. Motion carried 4-0. Carroll, Hancock, Krieser, and Wibbels voting 'yes'; Wanser absent.

Ms. Wibbels made a motion to approve the variance to reduce the side yard setback from 10 feet to 7 feet 6 inches. The motion died due to a lack of a second.

Mr. Hancock made a motion to deny the variance to reduce the side yard setback from 10 feet to 7 feet 6 inches, seconded by Mr. Carroll. Motion carried 3-1. Carroll, Hancock, and Krieser voting 'yes'; Wibbels voting 'no'; Wanser absent.

Appeal No. 2367 by Jerri Schultz for a variance to reduce the rear yard setback on property generally located at 3020 S. 57th Street.

PUBLIC HEARING

April 30, 2004

Becky Horner distributed a memo noting a couple site constraints, namely, an existing mature tree and a public light post, which would prevent the movement of the garage to the south, as stated in the staff report.

Jerri Schultz stated that they would like to build an addition to the rear of the house. She noted that there are peculiar and unusual conditions. Every other house in the addition was built to leave the most space in the rear yard, but their house is the only exception. Their property is unusual because it was built with the wide dimension of home across the wide dimension of the lot, leaving little room for an addition. They cannot add on to the south because of the established tree and light post. She then distributed a letter from Jeremy Jensen, a realtor in Lincoln, stating that building a garage on the south would not fit in with the other homes in the neighborhood. Mr. Jensen also noted that the proposed addition would most likely not affect neighborhood property values.

Ms. Schulz stated that all of the neighbors in their addition are in favor of the addition. She also noted a change in the original plan in that the roof line was indicated to be 18 feet, but it is 14 feet. She concluded by stating that this addition is very important in their family life in order to have ample room for family gatherings.

Mr. Carroll asked if there was further testimony in favor of or against the appeal. With no one appearing further, Mr. Carroll closed the hearing.

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Mr. Carroll stated there are no peculiar or unusual circumstances of the lot. The creation of the problem is caused by the applicant, not by the land. Mr. Hancock stated that there is nothing unusual or exceptional about the lot. Ms. Wibbels stated that circumstances in life change, and you cannot foresee possible changes, so she does not support the position that the problem is caused by the applicant. She added that the peculiar circumstance is that the back yard is short.

Ms. Wibbels made a motion to approve the application. The motion died due to a lack of a second.

Mr. Carroll made a motion to deny the application, seconded by Mr. Krieser. Motion to deny failed 2-2. Carroll and Krieser voting 'yes'; Hancock and Wibbels voting 'no'; Wanser absent.

There being no further business, Mr. Carroll adjourned the meeting at 2:19 p.m.